

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARCO MAESTRINI,

Plaintiff,

v.

CITY AND COUNTY OF SAN
FRANCISCO, et al.,

Defendants.

No. C 07-2941 PJH

**ORDER GRANTING MOTION TO
DISMISS IN PART AND DENYING
IT IN PART**

The motion of defendants City and County of San Francisco, Police Chief Heather Fong, and Officer Jesse Serna for an order dismissing the sixth through eleventh causes of action pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim came on for hearing before this court on September 12, 2007. Plaintiff appeared by his counsel Ben Nisenbaum, and defendants appeared by their counsel David B. Newdorf. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby GRANTS the motion in part and DENIES it in part as follows, for the reasons stated at the hearing.

1. The motion to dismiss the seventh, eighth, tenth, and eleventh causes of action is GRANTED, based on plaintiff's non-opposition.

2. The motion to dismiss the sixth cause of action for intentional infliction of

1 emotional distress and the ninth cause of action for violation of California Civil Code § 52.1
2 is DENIED.

3 3. Plaintiff shall file an amended complaint no later than October 3, 2007.
4 Defendants shall file their answer to the amended complaint no later than October 24,
5 2007.

6
7 **IT IS SO ORDERED.**

8 Dated: September 13, 2007



PHYLLIS J. HAMILTON
United States District Judge